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September 28, 2004

Jeff S. Jordan
Supervisory Attorney
Federal Election Commission
Washington, D.C. 20463

Re: MUR 5493

Dear Mr. Jordan:

I represent the Joan Barry in Congress Committee ("Committee") and Kirk Benjamin, the treasurer, with respect to the above referenced Complaint. Please let this letter serve as their reply.

The Complaint specifically refers to the Committee concerning Attachments E, F, & G. These items were included as attachments distributed to the press in a press release. The press packet had the necessary disclaimer on the front page. Attachments E, F, & G were not separate communications. They do not require disclaimers as prescribed under 11 CFR 110.11(c)(2)(v). The items identified as Attachments E, F, & G are provided to the Commission out of context and are not in violation of the regulations of the Federal Election Commission.

The Complaint further states that Attachments E, F, & G were mailed bearing no disclaimers in white envelopes without return addresses, then the Complaint attaches as proof Attachment H. Attachment H is completely hearsay. It is offered to prove the allegation without any accompanying affidavit of the addressee. It is impossible for my clients to negate the allegation because it makes a conclusory statement then offers a blank envelope to prove the allegation. The allegation should be dismissed outright.

The Complaint is silent as to my clients concerning Attachments A, B, C, & D, therefore we respectfully decline to comment.

On behalf of my clients I request that the Commission dismiss the Complaint against them.

Very truly yours,


Thomas J. Piatchek

CC: Clients

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

28044191031

STATEMENT OF DESIGNATION OF COUNSEL

MUR 5493

NAME OF COUNSEL: Thomas J. Piatchek

FIRM: Law Office of Thomas J. Piatchek

ADDRESS: 11848 Gravois Rd., Suite 225
St. Louis, MO 63126

TELEPHONE: (314) 842-9800

FAX: (314) 842-9801

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

9/28/04
Date

[Signature]
Signature

RESPONDENT'S NAME: Kirk Benjamin
Treasurer - Joan Barry in Congress Committee

ADDRESS: PO Box 510525
St Louis mo 63151

TELEPHONE: HOME ([REDACTED]) [REDACTED]

BUSINESS (314) 512-3290

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